

HALL NEILSON.

[To accompany Joint Resolution No. 28.]

MARCH 30, 1860.

Mr. MAYNARD, from the Committee on Claims, made the following

REPORT.

The Committee on Claims, to whom was referred the petition of Hall Neilson, have had the same under consideration, and beg leave to report :

That in 1828, William H. Neilson entered into a contract with certain persons for a certain lot of land with improvements, near Vincennes, Indiana, for which he agreed to pay \$6,000, in annual payments of \$1,000 each, commencing January 1, 1830, the trustees stipulating to convey the property with *general warranty*. Under this contract for a title, it appears that the purchaser expended large sums for improvements. By an agreement not necessary to explain, the equitable interest in the land passed from William H. Neilson to the present petitioner. The following letter from the Solicitor of the United States Treasury to the United States attorney at Vincennes, shows that at an early day Mr. Neilson offered to pay the purchase money, and applied for his title :

OFFICE OF THE SOLICITOR OF THE TREASURY,
December 15, 1832.

SIR : I have the honor to enclose to you herewith a copy of a letter received by me this day from Hall Neilson, esq., of Richmond, Virginia, accompanied by a copy of a memoranda of agreement entered into on the 21st day of June, 1828, between the trustees of the Secretary of the Treasury of the United States and William H. Neilson, of Louisville, Kentucky, for the purchase of the Vincennes steam-mill property, and lots adjoining thereto ; with also a copy of an additional agreement entered into between the same parties on the 27th day of December, 1828 ; and a copy of the assignment of all the right, title, and interest of Samuel N. Marron and James H. Hunter, in and to said property, to Mr. Hall Neilson. Dated August 2, 1832.

By Mr. Hall Neilson's letter, you will perceive that he is prepared to pay the first instalment of one thousand dollars in cash, and the remaining five thousand dollars in five annual payments of one

thousand dollars each, upon his being furnished with a proper deed of conveyance from the trustees as soon as it can be conveniently done, with a general warranty, in conformity with the agreement made with the treasury.

I will thank you, therefore, to make such inquiries respecting the original assignment as will satisfy you that the right of Mr. Hall Neilson to have a conveyance made to him is complete, and that the trustees ought to make a deed to him; and having ascertained it you will please prepare, without delay, a draft of a deed, in conformity with the agreement of the trustees, and furnish it to me duly executed by them according to the laws of Indiana, with as little delay as practicable.

Mr. Neilson requests me to state that Mr. James W. Greenhow and Mr. A. J. Ellis, who are witnesses to the assignment, will attest the correctness of the assignment made to him by Marron and Hunter.

I am, &c.,

V. MAXEY, *Solicitor, &c.*

SAMUEL JUDAH, Esq.,

United States Attorney, Vincennes, Indiana.

The foregoing is a true copy of an original letter on record in the office of the Solicitor of the Treasury. Witness my hand
[L. s.] and the seal of said office, this 22d day of December, 1856.

F. B. STREETER,

Solicitor of the Treasury.

Mr. Judah failed to comply with these instructions, and, it is alleged, improperly withheld the muniments of title.

In this state of the title the property was unsalable, and seems to have been of no advantage to the holder. So the matter stood until 1841, when the Solicitor of the Treasury called on Mr. Neilson for an adjustment of the matter; and it was finally arranged by Mr. Neilson giving his bond, with security, for the payment to the United States of the original sum of \$6,000, with interest from March 15, 1838, payable in four instalments, on the 1st of August in the years 1843, 1844, 1845, and 1846, and he received a deed with a special instead of a general warranty.

But Mr. Neilson's difficulties seem not to have been relieved. In 1844 a suit was commenced against him by one Wilson Logan to recover the property, and the government consented to suspend the collection of Mr. Neilson's bonds until the result of this suit should be ascertained.

The courts of Indiana decided adversely to the title of Mr. Neilson as the assignee of the United States. From this decision an appeal was taken to the Supreme Court of the United States, in which the decision of the Indiana court was reversed, and the title of Mr. Neilson established.—(See 12 Howard, 98.) It is a fact of some significance, that in the latter court Mr. Judah appeared as counsel against Mr. Neilson. It is represented that the case has been recently disposed of by the court of Indiana, and that the title of Mr. Neilson under the

United States has been established. The Solicitor of the Treasury demands payment of the bonds given by Mr. Neilson, with interest, according to their tenor. Mr. Neilson expresses his willingness to pay the amount of the original purchase money notwithstanding the heavy losses which he alleges he has sustained by the decay and destruction of the improvements on the property, and his inability to sell or alien it by reason of the litigation aforesaid, but he asks to be relieved from the interest.

The application is put upon the following grounds: 1st, that he has been greatly damaged by the failure of the United States to convey to him the property by general warranty, in accordance with the original contract; *and*, that he has not, up to the present time, been able to obtain such title and possession as to render the property useful and available to him.

To this it is objected that inasmuch as he compromised the matter in 1846, giving new bonds and accepting a *special* warranty, he is precluded.

Whatever might be the strictly legal effect of that adjustment, your committee believe it would be unconscionable upon the part of the government, under the circumstances of this case, to avail itself of that, at least, little else than a technical advantage. This view of the case is very much strengthened by the consideration that the government, in its dealings with individuals, rarely pays interest, and they are of opinion that it ought not in this case to exact it from the petitioner.

A joint resolution to this effect passed the Senate during the thirty-fourth Congress, and a similar one passed the House during the thirty-fifth Congress, but in neither case passed both branches of Congress. Your committee therefore report a joint resolution in favor of Mr. Neilson, and recommend its passage.

